

CHAPTER OVERVIEW

This chapter will describe Children's Division (CD) policy and procedures for conducting divorce custody studies.

11.1 Court Ordered Divorce Custody Studies

11.1.1 Factors to be Considered in the Home Study

11.1.2 Procedures to be Followed With Every Person at Initial Contact

11.1 Court Ordered Divorce Studies

NOTE: It is not routine to include a recommendation section in a court ordered divorce study. A recommendation section should only be included in this type of study only at the request of the court.

NOTE: Efforts should be made to have the court direct these requests to local private agencies.

1. Receive court order for divorce custody study.
 - a. Contact judge and request written order, if oral order.
 - b. Proceed on oral order if judge does not issue written order.
 - c. Write to judge confirming oral order and agency compliance.
 - d. Notify, in writing, each attorney or party not represented by counsel of the oral order, that agency will comply, and date investigation will begin.
 - e. Refuse request, if made by others, and request a formal court order.
 - f. Refuse request if made by out-of-state court.
2. Contact each attorney, or either party not represented by counsel, giving the following information:
 - a. Explain receipt of order.
 - b. Ascertain wishes of attorney's client, or party not represented, as to custody.
 - c. Request names of persons attorney/party wants interviewed.
 - d. Determine whether court date for hearing is scheduled and obtain date.
3. Confirm, in writing, discussion with attorney/party and points covered.

4. Interview parties, covering at least those items required in Statute 452.375, RSMo.
5. Interview all persons specified by attorneys and/or parties.
 - Inform of rights and requirements.
6. Interview other expert persons who have served the child, and who may have information pertaining to custody determination.
 - Inform of rights and requirements.
7. At worker's discretion, interview other persons who may have information about the child and potential custodial arrangements.
 - Inform of rights and requirements.
8. Interview child/children, if indicated or appropriate.
9. Request court order to have child examined and diagnosed, if indicated.
 - Child's consent is required if child is 16 or older, unless the court finds the child lacks the capacity to consent.
10. Refer to appropriate professional if examination is authorized.
11. Write report covering at least those items required in section 452.375, RSMo.
 - a. Include written report of any ordered examinations.
 - b. Include statements regarding refusal, by any appropriate resource, individual or organization to supply information when requested.
 - c. Do not include a recommendation unless requested by the court.
12. Send report to each attorney, or either party not represented by counsel, at least ten (10) days prior to date of hearing.
 - a. If court requires or requests a copy of the report, contact juvenile officer and point out appropriate section of statute (section 452.390, RSMo.) which judge's precludes right to a copy of the report.
 - b. Comply, if judge insists copy of report be submitted to court.

- c. Notify, in writing, each attorney or party not represented by counsel of court's order and CD's compliance.
- 13. Retain in case record all notes, messages, copies of correspondence, and file copy of report.

11.1.1 Factors to be Considered in the Home Study

- a. The wishes of the parents of the child as to his custody;
- b. The wishes of a child as to his custodian;
- c. The interaction and interrelationship of the child with his parents, his siblings, and any other person who may significantly affect the child's best interest;
- d. The child's adjustment to his home, school, and community;
- e. The mental and physical health of all individuals involved; and
- f. If a parent has been found guilty of, or has pled guilty to, a felony violation of RSMo, 566 or 568.020, when the child was the victim. (Section 452.375, RSMo.)

11.1.2 Procedures to be Followed With Every Person at Initial Contact

- a. The Children's Service Worker will identify him or herself.
- b. Explain the reason for the contact.
- c. The court order will be shown to the person.
- d. The party is to be advised that their name, address, and phone number will be submitted to the attorneys or parties upon request.
- e. They are subject to subpoena.
- f. Any information they give may appear in the report file.
- g. They do not have to discuss the matter.
- h. If they refuse to discuss or answer the Children's Service Worker's questions, this fact must be included in the report.

MEMORANDA HISTORY: